

MINUTES

Government Accountability Task Force

Senator Jordan Youngberg, Chair
Representative Julie Bartling, Vice Chair



**First Meeting, 2017 Interim
Monday, June 19, 2017**

**Room 413 – State Capitol
Pierre, SD**

The first meeting of the Government Accountability Task Force was called to order by Senator Youngberg at 10:45 a.m. (CDT) on June 19, 2017, in Room 413 of the State Capitol, Pierre, South Dakota.

A quorum was determined by the following members answering the roll call: Senators Brock Greenfield, Craig Kennedy, and Billie Sutton; Representatives Timothy Johns, Karen Soli, and Mike Stevens; Mr. Tony Venhuizen, Ms. Kea Warne, and Mr. Rich Willams; Representative Julie Bartling, Vice Chair; and Senator Jordan Youngberg, Chair.

Staff members present included Fred Baatz, Principal Research Analyst; Wenzel Cummings, Legislative Attorney; Jason Simmons, Principal Fiscal Analyst; and Paul Giovanetti, Senior Legislative Secretary.

NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council office. This meeting was web cast live. The archived web cast is available at the LRC web site at <http://sdlegislature.gov>.

Introduction of Task Force Members

Senator Jordan Youngberg welcomed everyone for attending the meeting, outlined the task force meeting procedures and goals, and allowed task force members time to introduce themselves to each other. Task force members introduced themselves and provided a brief history of their involvement with campaign finances.

State Campaign Contribution Limits and Campaign Finance Reporting Requirements

Ms. Kea Warne, Deputy Secretary of State, Secretary of State's Office reviewed the state campaign contribution limits ([Document #1](#)) as will be applicable on July 1, 2017. Current campaign laws are found in SDCL chapter 12-27. She explained the campaign contribution limits before the passage of Initiated Measure 22 (IM 22), the limits set by IM 22, and the limits that will go into effect on July 1, 2017 with the passage of SB 54. She also reviewed the South Dakota campaign finance report deadlines.

Mr. Tony Venhuizen asked for the definition of an entity. Ms. Warne replied that SB 54 defines it as the following:

""Entity," any organized or unorganized association, business corporation, limited liability company, nonprofit corporation, limited liability partnership, limited liability limited partnership, limited partnership, partnership, cooperative, trust except for a trust account representing or containing only a contributor's personal funds, a business trust, association, club, labor union, or collective bargaining organization; any local, state, or national organization to which a labor organization pays membership or per capita fees, based upon its affiliation and membership; any trade or professional association that receives its funds from membership dues or service fees, whether organized inside or outside the state; any other entity of any kind, except a natural person that is, has been, or could be recognized by law; or any group of persons acting in concert that is

not defined as a political committee in this chapter except, an entity is not a candidate, a public office holder, or a political committee;"

Senator Brock Greenfield asked for clarification on legislative candidates having to file pre-primary campaign finance reports. Ms. Warne replied legislative candidate must file this report if their name is on the primary election ballot.

Mr. Venhuizen asked with the passage of SB 54, can a candidate have two campaign committees, one legislative and one for a statewide office. Ms. Warne confirmed that on July 1, 2017 a candidate can have both a legislative campaign committee and a statewide campaign committee.

Senator Greenfield asked since campaigns are currently in a reporting period should the task force consider any new legislation beginning after the current reporting period ends. Ms. Warne agreed having an effective date that is not in the current reporting period would benefit both the candidates and the Office of the Secretary of State.

National Campaign Contribution Limits

Mr. Fred Baatz, Principal Research Analyst, Legislative Research Council reviewed the national data provided by National Conference of State Legislatures (NCSL) on campaign contribution limits, limits on contributions to political parties, limitations on contributions to political action committees (PACs), and information on United States Supreme Court cases regarding campaign finances [\(Document #2\)](#). SB 54 made changes to SDCL chapter 12-27 and after codification the state information will be updated for the committee.

Historical Campaign Finance Reports

Ms. Warne showed the Secretary of State's webpage and explained how the public can access campaign finance information including, campaign finance facts and questions, contribution limits, important dates for candidates, and access to the paper forms. She gave a brief overview of the online Campaign Finance Reporting System.

Ms. Shantel Krebs, Secretary of State, reviewed SB 54. The Office of the Secretary of State worked with a task force in 2016 that focused on answering questions regarding the 2016 elections. The focus of that task force was to clarify reports and transparency on campaign finances. SB 54 included many of the provisions that was the result of the task force work.

Mr. Venhuizen asked how the Office of the Secretary of State could enforce the election laws. Secretary Krebs stated with the passage of SB 151 her office is in a better position to enforce reporting deadlines and report repeat offenders to the state's attorney or the attorney general.

Senator Youngberg asked prior to SB 151 was there a way for a person to complain to the Office of the Secretary of State. Secretary Krebs replied there was a means to submit a complaint, however there was no formal complaint process and often complaints were anonymous and vague. Under SDCL §§ 12-27-40 and 12-27-35 her office could refer violations to the state's attorney for local elections and the attorney general for statewide elections.

Mr. Venhuizen asked why SB 151 required the complaint to be an affidavit. Secretary Krebs stated complaints that were received by her office would often be vague and anonymous. For authorities to be in a position to act on these complaints, they requested that the complaint to be a notarized affidavit with supporting documentation.

Senator Billie Sutton stated that before SB 151 if someone violated contribution limits the Secretary of State had limited means to prove or investigate violations.

Senator Greenfield asked for more information concerning the recently adopted provision that allows corporations to contribute to campaigns. Secretary Krebs stated under the current law corporations and other entities were not permitted to directly give to a candidate or political party and that was amended to allow corporations and other entities to make direct contributions and provide more transparency.

Discussion of Task Force Direction

Senator Sutton recommended that the task force review the states around us for their campaign finance limits and requirements. Additionally, he suggested that the task force has a roadmap of what the people of South Dakota wanted pursuant to the limits passed in IM 22. The taskforce should use this as a model and build from there.

Mr. Venhuizen noted SDCL chapter 12-27 needs to be simplified. There should be a section in the law that simply states the contribution limits. The task force should be careful of limiting ballot question committees because this issue is currently in the courts. IM 22 was passed by the voters as a package deal, and it would have created the ability to publicly fund campaigns with state dollars through a program giving democracy credits.

Senator Craig Kennedy expressed concern that SB 54 created campaign finance limits but ignored the limits in IM 22 passed by the people of South Dakota. This task force needs to provide the people a logical explanation of campaign finance limits and work to simplify the law.

Senator Greenfield stated that the task force should review the campaign finance limits from IM 22 and limits established for surrounding states. The task force needs to establish campaign limits that are logical for everyone.

Mr. Rich Williams conveyed the Attorney General's office role on the task force is not to establish policy related to campaign finance. The role of the Attorney General's office is to ensure the constitutionality of campaign finances. There have been several federal United States Supreme Court cases that are clear on what a state can and cannot do in regards to campaign finances. However, there is also some gray area and the role of the Attorney General's office is to ensure that the legislations the task force produces is defensible in court.

Ms. Warne stated the Secretary of State's office role on the task force is to simplify campaign finance regulations and make what the task force accomplishes simpler to comply for the candidates, the public, county election officials, and the Secretary of State's office.

Representative Mike Stevens commented that the task force should examine what IM 22 did for campaign finances, what other states are doing, and find what is best for the people South Dakota.

Representative Timothy Johns explained the task force has two issues to examine; who can candidates accept money from and how much can the candidate accept. He wants to ensure the candidates receive enough funds that anyone in South Dakota can run for public office and the task force needs to set that amount.

Representative Karen Soli stated the Legislature ran out of time to put forth a solid plan focused on campaign limits during session. The Legislature knew it was imperative to look at the limits because the voters expressed their concern with the passage of IM 22. Additionally, the task force needs to look at the ethics regarding campaign finances and create a system where violators are held accountable. The task force should continue to take public testimony where the public can have an open dialogue on this topic.

Representative Julie Bartling stated that the task force was established to examine the issues of campaign finance, review current related statutory protections, recent legislative changes, and propose potential legislation to the Ninety-third Legislature. The task force needs to give this topic a deliberate in-depth consideration and submit a plan to the Legislature that will address the constituent's concerns. However, the United States Supreme Court

rulings do affect what the task force can and cannot do and the task force should have a presentation on those court cases to understand their impact.

Senator Youngberg stated the task force has a goal to study campaign finances as outlined in SB 171 and looks forward to working with everyone on this topic.

Public Testimony

Ms. Marcia Dunsmore, Democracy in Action, Rapid City commented about the name of the task force and stated the task force should focus on more than just campaign finances. Democracy in Action feels SB 151 will silence legitimate complaints with the requirement of an affidavit alleging a violation of the campaign finance requirement. Democracy in Action does not want people to be silenced. The public should not be responsible for conducting the research before it comes to the state. Additionally, retribution is a concern of the public with an affidavit being required. Democracy in Action understands the wish for open transparency but understands SB 54 will allow a corporation to give directly to a candidate and give to a PAC which is doubling the amount that they can give to a candidate. The simpler the laws are regarding campaign finance the better it is for the public.

Representative Soli asked what else Ms. Dunsmore wanted the task force to address about IM22 other than campaign finances. Ms. Dunsmore replied the task force should take the numbers from IM 22 and make them the contribution limits. IM 22 addressed ethics and created a commission where ethical violations of the public trust are held accountable and that is what the public wants.

Senator Greenfield replied SB 171 started out as An Act to establish the Government Accountability Task Force to study government, campaign finance, lobbyist restrictions, and ethics and to declare an emergency. There were many pieces of legislation addressing the issues brought by the people of South Dakota through IM 22. The one piece that was not addressed was campaign finance and the House narrowed the scope of SB 171 to focus on that one topic. It is not the intent to stifle out anyone's voice but the task force is under the direction of the Executive Board of the Legislative Research Council and the scope of the legislation passed by the Legislature in SB 171 focuses on campaign finances.

Mr. Doug Kronaizl, Represent Us, Vermillion recommended that the task force looks back at the campaign finance limits passed by the people of South Dakota in IM 22. Section 30 of IM 22 states how to make the information on campaign finance reporting accessible to voters. Sections 5-8 of IM 22 sets the limits, even without the democracy credits being available, these should be the limits the task force sets. Lastly, section 10 of IM 22 focuses on where the money comes from which matters more than who is receiving the money.

Mr. Shawn Lyons, South Dakota Retailer Association, Pierre provided the task force with the perspective of a PAC on campaign finances. The Retailer Association PAC was established to fund candidates who want to promote small businesses and retailers. Retailers want the ability to support more than one candidate from both parties. When the task force considers changes in contribution limits, the task force should understand there are a number of PACs in the state who represent all South Dakotans not out-of-state interest.

Task Force Discussion

The task force discussed the scope of the study topic and the possibility to expand the scope to cover campaign finance ethics and accountability. There was discussion about prior to the passage of SB 54 the Secretary of State's office was limited on how they could address complaints. The task force requested the staff to provide copies of SB 151 and IM 22. The task force members discussed current ballot measures that concern campaign finances and requested copies of the proposed ballot measures. The consensus of the task force was that campaign finance

violations and accountability fell within the scope of the task force and they did not need any more authority from the Executive Board.

Planning for Future Meetings

The task force members discussed future meeting and dates to meet. The next meeting will be scheduled for August 29-30th and the last meeting being held on Monday, October 16th in Pierre.

Adjournment

A MOTION WAS MADE BY REPRESENTATIVE STEVENS, SECONDED BY REPRESENTATIVE JOHNS, THAT THE GOVERNMENT ACCOUNTABILITY TASK FORCE MEETING BE ADJOURNED. The motion prevailed unanimously on a voice vote.

The task force adjourned at 2:45 pm